



Iowa Department of
Administrative Services

General Services Enterprise

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To: Members of the Legislative Government Oversight Committee
FROM: Mark Johnson, Legislative Liaison
RE: DAS Position on Model Procurement Code Review

The Department of Administrative Services believes that a thorough review of the state's many procurement provisions would result in improved and more cost-effective procurements processes for the state and other participating local government entities. We believe that the Model Procurement Code (MPC) would provide a sound basis for that review and any necessary updating of the statutes and rules relating to procurement by Iowa's governmental entities. The adoption of a modified, Iowa specific MPC will provide governmental entities and private sector suppliers with a uniform, cost effective, ethical, accountable procurement code, as well as provide protection to the integrity of the public procurement process.

The creation of the MPC was based upon a Council of State Governments study in 1974 that was funded by the U.S. Department of Justice. The study centered on drafting concepts for statutory principles with the details to be included in the rules and regulations adopted by State and Local Governments. The final version was a product of national consensus among professionals, organizations, public agencies, and private firms that provide the key elements of effective, transparent, competitive, and reliable processes through which billions of dollars of public funds have been expended. The MPC was approved by the American Bar Association in 1979 and has provided objective national benchmarks against which procurement legislation and regulations at the state and local governmental levels have been measured. The MPC has been adopted in full by sixteen states; in part, by several more; and by thousands of local jurisdictions across the United States.

The 1979 MPC provided a basic formulation of the fundamental principles which durable public procurement systems rest. The eleven basic principles are:

- ☐ Competition
- ☐ Ethics
- ☐ Predictability
- ☐ Clear Statements of Procurement Needs
- ☐ Equal Treatment of Bidders
- ☐ Methods of Source Selection
- ☐ Bid/Proposal Evaluation
- ☐ Reduction in Transaction Costs for Public and Private Sector Entities
- ☐ Procurement of Construction Related Services

- ❑ Remedies
- ❑ Facilitation of Intergovernmental Transactions

Since 1979, the ever changing processes by which procurement transactions are conducted have changed dramatically as a result of the following:

- ❑ The nature of procurement has changed significantly because of technology advancements.
- ❑ The procurement volume is increasing rapidly because of the shift of federal programs to state and local jurisdictions.
- ❑ The means by which procurement transactions can be concluded has changed by the introduction of advanced electronic commerce/procurement software.
- ❑ Variability among the governmental entities has had few alternatives other than responding to change on a local ad hoc basis. The resulting trends have lead to procurement rules by numerous jurisdictions discouraging competition and vendors understanding and complying with the different rules of each jurisdiction, thus increasing costs to the governmental entities.

Revisions and updating of the MPC address the changes that have occurred in public procurement and are based upon the following premises:

- ❑ Reducing transaction costs for all governmental entities at the state and local levels.
- ❑ Reducing transaction costs to private sector suppliers of goods and services.
- ❑ Substantially increasing available levels and ranges of competition through modern methods of electronic commerce.
- ❑ Encouraging the competitive use of new technologies, new methods of performing, and new forms of project delivery in public procurement.

The most notable revisions to the MPC were adopted in 2000 and included:

- ❑ Allowance of procurement processes to adapt to the electronic age.
- ❑ Language to extend the benefits of cooperative purchasing of supplies and services among state and local governments.
- ❑ Language that provides flexibility to procurement procedures to unusual circumstances, with appropriate safeguards and reporting.
- ❑ Language that provides “best practice” processes for the delivery of infrastructure facilities and services.

As you can see, the adoption of an MPC in Iowa would require considerable effort on an enterprise level that would result in (1) the statutory principles and policy guidance for managing and controlling the procurement of supplies, services and construction for public purposes; (2) administrative and judicial remedies for the resolution of controversies relating to public contracts; and (3) a set of ethical standards governing public and private participants in the procurement process. To coin several phrases: “real change requires real change” and “it don’t come easy!” DAS stands ready and committed to working with you and others to develop and implement this enterprise approach to the improvement of the State’s procurement processes.